

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JASON LEE VAN DYKE,

§

Plaintiff,

§

v.

§

Civil Action No.: 4:19-cv-786-SDJ-KPJ

MICHAEL SHACKLEFORD,

§

Defendant.

§

§

§

ORDER

Pending before the Court is Defendant Michael Shackleford’s (“Defendant”) Motion to Stay Discovery and Motion for Abatement of any Order for Rule 26 Conference Pending Determination of Motion to Dismiss and Asserted Immunity (the “Motion”) (Dkt. 7). In the Motion, Defendant asks the Court to stay all discovery and any discovery planning procedure pending the resolution of Defendant’s Motion to Dismiss. *See* Dkt. 7 at 1–2. Plaintiff Jason Lee Van Dyke did not file a response to the Motion. Upon consideration, the Court determines that Defendant’s Motion (Dkt. 7) should be **GRANTED**.

Until a “threshold immunity question is resolved, discovery should not be allowed.”

Harlow v. Fitzgerald, 457 U.S. 800 (1982); *see also Criss v. City of Kent*, 867 F.2d 259, 261 (6th Cir. 1988) (“[D]iscovery in litigation against government officials should be halted until the threshold question of immunity is resolved.”). Eleventh Amendment immunity confers immunity from suit, not merely from liability. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100–02 (1984); *Edelman v. Jordan*, 415 U.S. 651, 662–63 (1974). The U.S. Supreme Court expressly acknowledges the importance of protecting government time and witnesses in the

context of immunity from suit. *Ashcroft v. Iqbal*, 556 U.S. 662, 685 (2009) (“The basic thrust of the qualified-immunity doctrine is to free officials from the concerns of litigation, including ‘avoidance of disruptive discovery.’”).

IT IS THEREFORE ORDERED that Defendant’s Motion (Dkt. 7) is **GRANTED**. All discovery and Rule 26 conference and scheduling requirements are stayed pending resolution of Defendant’s qualified immunity defenses.

So ORDERED and SIGNED this 16th day of December, 2019.



KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE